



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

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Senator Mark Miller, Co-Chair
Joint Committee on Finance
317-E, State Capitol
Madison, WI 53702

Representative Mark Pocan, Co-Chair
Joint Committee on Finance
309-E, State Capitol
Madison, WI 53702

Members of the Joint Committee on Finance

Dear Senator Miller, Representative Pocan and Members of the Joint Committee on Finance:

Thank you for inviting me to testify before your committee as you and the legislature take up the Governor's proposed state budget. I appreciated the opportunity to testify before you about the mission and needs of the Wisconsin Department of Justice and public safety concerns across Wisconsin. Serious debate and discussion is the key to sound conclusions. I remain open to discussions and your questions as the process continues. I shared with you in a previous letter, again during my testimony, and in response to questions my grave concerns about plans contained in the Governor's budget that will harm public safety.

Recently there has been much discussion of my position on the Governor's proposal in the budget to release 1000 convicted felons from prison and reduce probation and parole for thousands more. My position can best be described by the words of then-Attorney General Doyle who, in 2002, stated,

"You certainly don't want to balance the budget by sacrificing safety. I do not believe the way you reduce the prison population is to open up the door and let people out."

Many have maintained that Wisconsin's prison populations are out of control. In fact, Wisconsin ranks 28th among the states and is 11% below the national average of incarcerated adults. (National Institute of Corrections, 2007; Pew Report 2009). And, our neighbors in Minnesota, often pointed to as a model for reformers, actually have a higher rate of adults under correctional control and rank 8th nationally, as opposed to Wisconsin which ranks 35th. Like Minnesota, Wisconsin's crime rate is below the national average. Wisconsin does perform poorly in that our corrections system costs more as a percentage of state spending than the national average. In fact, Wisconsin ranks 9th nationally in correctional spending.

Corrections spending isn't being controlled in this proposed budget. For example, in FY2008, the Department of Corrections (DOC) spent just over \$30 million in overtime. In the next budget the Governor proposes *increasing* that allocation to \$35 million by the second year of the biennium. Similarly, when I read that Wisconsin prisons are spending \$4000 annually on public performance licenses to show R rated movies to sex offenders, I have to question the waste of tax dollars that could be more wisely invested in treatment alternatives. Also in this budget, DOC requests additional funds to hire two more administrative law judges so they can hold more revocation hearings and send more offenders to prison. Those dollars could and should be invested in community alternatives for offenders.

While opening prison doors is indefensible, locking people up isn't the only appropriate response of the criminal justice system. When I was District Attorney in Bayfield County, I helped start a Criminal Justice Coordinating Council because I have always supported alternatives to incarceration, including drug courts, OWI courts, domestic violence intervention services and others. There is no doubt that an investment in effective treatment alternatives in the community would pay dividends in straightening out lives, lowering prison admissions, and doing so without sacrificing public safety.

At least half (and some say as high as 70%) of all offenders sent or returned to prison failed to successfully complete their probation or parole. These offenders—and there are literally thousands of them—were initially deemed to be good risks for supervision by their sentencing judges, but ultimately failed either because they committed new crimes or violated the terms of their supervision. The early release and reduction in supervision upon release proposed by the Governor can only exacerbate these figures. Again, a better, more long-term solution is to provide alternatives to revocation and other programs which enable offenders to address their problems, find jobs and become productive members of their communities. This will lower prison admissions, but do so without reducing public safety.

Recently, DOC Secretary Raemisch stated, "We have to figure out which ones are bad and which ones we're mad at." I think that statement illustrates the error of this approach. This isn't and shouldn't be an emotional decision. Elected judges are guided by the laws at sentencing where they consider the impact of the crime on victims and the need for punishment as a deterrent to others as well as the risk the offender poses to the community. It is disrespectful to crime victims and judges and minimizes the crime and its impact on communities to suggest that there is simply anger in the courtroom at the time of sentencing. In most cases, Secretary Raemisch's own staff provides the very reports relied on by the judges when imposing those sentences.

Current law already enables those who complete intensive treatment or who have demonstrated progress in their rehabilitation to apply for early release. Behaving well in prison should not be a primary criteria for early release. Seasoned criminal justice professionals know that "good inmate" does not equal "good citizen." Some of the best behaved inmates are those who are serving a life sentence for homicide. Sometimes a lengthy sentence must be served

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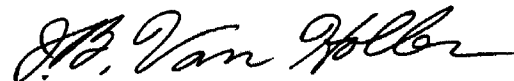
simply as punishment for the crime committed as risk to the public is not the only factor to be considered when contemplating release. Some offenders, like Bernard Madoff, may not pose a substantial physical risk to the public but must be confined as punishment for the crime committed. Victims, too, have a right to transparency in the process, one afforded by current law.

I remain concerned about the provision which would eliminate community supervision of certain misdemeanor offenders. Eliminating an early intervention tool which prevents many offenders from escalating into more serious criminal behavior is exactly the opposite approach of what the Governor purports to support. In addition, this action simply shifts the burden to the counties and will increase costs and local jail populations as sentencing judges will no longer have probation as an option. This can't be good for the offender's overall rehabilitation efforts. Serving a jail sentence can interrupt employment, schooling and can interfere with child care and other family responsibilities. Support for increased jail sentences for misdemeanants, while reducing prison time for felons, is an inconsistent and unwise approach and portends a greater risk to public safety. Effective community supervision can provide the structure and resources needed to assist the offender and protect the community *without confinement*. This supervision is *reduced* under the Governor's proposal.

Rather than attempting to push through a quick fix in an effort to save money, I believe we must have serious, detailed, and deliberate discussions about incarceration rates, sentencing decisions, terms of confinement, community based treatment alternatives and efficient corrections operations. These issues are important for both public safety's sake and to ensure the wise use of the taxpayer's dollar. A biennial budget bill is not the proper forum for this discussion. I am asking this committee to value deliberation and pull these Corrections-related reforms out of the budget bill.

I look forward to continuing to talk and work with you on these important matters.

Sincerely,



J.B. Van Hollen
Attorney General

JBV:CLO:KMS/pss

Cc: Governor James E. Doyle, Jr.
Michael L. Morgan, Secretary of Administration
Richard F. Raemisch, Secretary of Corrections
All State Legislators (via e-mail)